

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CAREY ABNEY	:	CIVIL ACTION
	:	
v.	:	
DAVID DIGUGLIELMO	:	NO. 06-0461

MEMORANDUM AND ORDER

On January 30, 2006, petitioner filed in this court what purports to be a petition pursuant to Federal Rule of Civil Procedure 60(b) Pursuant to the language of Rule 60(b), such a petition may be treated as either: a new civil action; or, a filing in an already opened civil action. When this matter was originally filed in this court, the Clerk of this Court decided to classify this matter as a new civil action, and the court does not object to this classification.

Petitioner raises arguments that allegedly justify his release from prison pursuant to Federal Rule of Civil Procedure 60(b): It appears to this court that petitioner does not comprehend what a motion pursuant to Federal Rule of Civil Procedure 60(b) is. The purpose of a Rule 60(b) motion is to correct errors of fact only. In the instant petition, petitioner is raising arguments concerning established federal **LAW**; he is not alleging any newly discovered **FACTS** which could not have been previously discovered through due diligence. On this ground alone, the court is inclined to disallow petitioner's Petition for Rule 60(b) relief.

Furthermore, the court notes that the principle of releasing a prisoner from custody because of an allegedly unconstitutional conviction or sentence is governed by the law of habeas corpus, which is part of the Antiterrorism and Effective Death Penalty Act of 1996 (commonly known as "AEDPA"), codified as 28 U.S.C. §§2241-2266. The mere fact that habeas corpus relief is precluded by AEDPA does not mean that an alternative route to the same goal is available by means of a Petition pursuant to Federal Rule of Civil Procedure

